

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 G. MICHAEL GERMAN  
Deputy Attorney General  
4 State Bar No. 103312  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2617  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-565

13 **CAITLYN JEAN TOMKIEWICZ**  
873 Stevens Avenue, Apt. 3312  
14 Solana Beach, CA 92075

**A C C U S A T I O N**

15 **Registered Nurse License No. 714115**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, (Board),  
21 Department of Consumer Affairs.

22 2. On or about October 17, 2007, the Board of Registered Nursing issued Registered  
23 Nurse License Number 714115 to Respondent Caitlyn Jean Tomkiewicz. The Registered Nurse  
24 License was in full force and effect at all times relevant to the charges brought herein and expired  
25 on February 28, 2009, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), an expired license may be renewed at any time within eight years after expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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## COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Out-of-State Discipline)

8. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent was disciplined by the Arizona State Board of Nursing (Arizona Board). The circumstances are as follows:

1           9.     The Arizona Board Entered a Consent Agreement and Order in case number 0901007  
2 against Respondent and her Arizona Registered Nurse License, which became effective on  
3 November 19, 2009. Respondent's license was placed on probation for eighteen months on terms  
4 and conditions. The Consent Agreement and Order is attached as Exhibit A, and is incorporated  
5 by reference as if fully set forth herein. In the Consent Agreement, Respondent admitted the  
6 Findings of Fact and agreed that they constitute sufficient cause for the Arizona Board to take  
7 disciplinary action against her license to practice as a registered nurse in Arizona. The Findings  
8 of Fact and Conclusions of Law established that Respondent had engaged in unprofessional  
9 conduct, including but not limited to the following:

10           a.     In or around November 2008 while Respondent was employed as a registered  
11 nurse at Maricopa Medical Center (MMC) in Phoenix, Arizona, she was witnessed as having  
12 slurred and/or incoherent speech, lacking coordination, and having difficulty staying awake while  
13 on duty. The facility's audit of controlled drug withdrawals and medical record review showed  
14 that from October 2008, to November 20, 2008, Respondent failed to correctly obtain, waste,  
15 and/or document several pain medications. Respondent submitted to urine analysis, which was  
16 negative. Board staff reviewed six patient medical records identified in MMC's audit, and found  
17 that various dosages of medicine were wasted or unaccounted for. On July 9, 2009, in an  
18 interview with Board staff, Respondent acknowledged that she failed to maintain accurate pain  
19 medication withdrawal and administration records between October 2008, and November 2008.

20           b.     On or about December 12, 2008, while Respondent was employed as a  
21 registered nurse at Friendship Village in Tempe, Arizona, Respondent was observed to be  
22 lethargic and had difficulty keeping her eyes open and maintaining concentration while on duty.  
23 Respondent submitted to a urine drug screen, which was positive for hydrocodone, although she  
24 apparently had a valid prescription for Vicodin (hydrocodone). Friendship Village's subsequent  
25 complaint to the Arizona Board also stated that Respondent failed to maintain accurate controlled  
26 drug medication administration records for two patients. In a Board interview on July 9, 2009,  
27 Respondent admitted making documentation errors while working at Friendship Village.  
28 Respondent denied diverting medications for her personal use.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 714115, issued to Caitlyn Jean Tomkiewicz;

2. Ordering Caitlyn Jean Tomkiewicz to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SD2010800260

# EXHIBIT A

Janice K. Brewer  
Governor



Joey Ridenour  
Executive Director

## *Arizona State Board of Nursing*

4747 North 7<sup>th</sup> Street, Suite 200  
Phoenix AZ 85014-3655  
Phone (602) 771-7800 Fax (602) 771-7888  
E-Mail: [arizona@azbn.gov](mailto:arizona@azbn.gov)  
Home Page: <http://www.azbn.gov>

### **AFFIDAVIT OF CUSTODIAN OF RECORDS**

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **CAITLYN JEAN TOMKIEWICZ**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on December 30, 2009.

SEAL

*Joey Ridenour R.N. M.N. F.A.A.N.*

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED )  
NURSE LICENSE NO.: RN137885, )  
LP040473 (expired), CNA999994269 )  
(expired) )  
ISSUED TO: )

CAITLYN JEAN TOMKIEWICZ )  
RESPONDENT )

CONSENT AGREEMENT  
AND  
ORDER NO. 0901007

**CONSENT AGREEMENT**

A complaint charging Caitlyn Jean Tomkiewicz ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent holds Board issued registered nurse license no. RN137885, expired practical nurse license LP040473, and expired nurse assistant certificate number 999994269.
2. From on or about August 25, 2008 to on or about December 1, 2008, Respondent was employed by the Maricopa Medical Center Burn Unit, Maricopa Integrated Health System in Phoenix, Arizona.
3. On or about January 8, 2009, Sherry Stotler, Director of Nursing for Maricopa Medical Center (MMC), notified the Board that in or around November 2008 Respondent was witnessed having slurred and/or incoherent speech, lacking coordination, and having difficulty

staying awake while on duty. The facility's audit of controlled drug withdrawals and medical record reviews showed that from October 2008 to November 20, 2008, Respondent failed to correctly obtain, waste, and/or document several pain medications. Respondent's for cause urine drug screen was negative.

4. Board staff reviewed six patient medical records identified in MMC's audit, with the following findings:

a. For patient J.M., on November 19, 2008, Respondent withdrew 1200mcg of Fentanyl and documented administering 300mcg. 500mcg of the remaining 900mcg was documented as wasted with no documentation regarding reason for withdrawal. Documentation for the remaining 400mcg is inconsistent between the medication administration and wastage records. All wastages occurred between 5:44 p.m. and 5:45 p.m. Respondent also withdrew 90mg of Percocet between 7:18 a.m. and 2:07 p.m. Respondent documented wasting 60mg at 5:45 p.m., up to five and one-half hours after the initial Percocet doses were withdrawn at 7:18 a.m. Respondent said she wasted the Percocet earlier but did not enter the wastage into the Pyxis system until later in the shift.

b. For patient A.H. there was a physician order to administer Fentanyl 50mcg IV with the dressing change and may repeat the dose twice, for a maximum dose of 150mcg per dressing change. On November 19, 2008, A.H. had one scheduled dressing change. Respondent withdrew 1000mcg of Fentanyl between 9:15 a.m. and 5:03 p.m. Respondent documented administering 50mcg. The remaining 750mcg was documented as wasted at 5:44 p.m. 200mcg withdrawn at 9:15 a.m. was unaccounted for.

c. For patient D.S. there was a physician order to administer Fentanyl 100mcg with the dressing change and may repeat the dose twice, for a maximum total of 300mcg



for the dressing change. D.S. was to receive a dressing change one to two times on Respondent's shift. On November 19, 2008, Respondent withdrew 1600mcg of Fentanyl between 9:16 a.m. and 3:05 p.m. Respondent documented administering 350mcg, wasting 1150mcg at 5:46 p.m., and 200mcg was unaccounted for. No documentation was found regarding pain assessments.

d. For patient M.T., between October 1, 2008 and October 8, 2008, Respondent withdrew a total of 1600mcg of Fentanyl and 60mg of Percocet that was unaccounted for.

e. For patient T.K., on October 20, 2008, Respondent withdrew 500mcg of Fentanyl, 8mg of Morphine Sulfate, and 5mg oxycodone that was unaccounted for.

f. For patient S.L., on October 18, 2008, Respondent withdrew 200mcg of Fentanyl at 8:23 a.m. and 9:04 a.m. There was no documentation as to administration or wastage. S.L. was discharged at 5:03 p.m. the same day.

5. On July 9, 2009, in an interview with Board staff, Respondent acknowledged she failed to maintain accurate pain medication withdrawal and administration records between October 2008 and November 2008. Respondent said that, based on patient pain and dressing change needs, Burn Unit staff withdrew large amounts of pain medications and frequently did not follow narcotic withdrawal or wastage policies at MMC. This information was verified by MMC Burn Unit management. Respondent wasted unused narcotics appropriately after administration in the patients' rooms but documented all wastages in the Pyxis system at the end of the shift when staff members were more readily available. She denied diverting medications for her personnel use. She requested to submit to a urine drug screen which returned negative.

6. From on or about March 25, 2002 to August 12, 2007, and from June 2, 2008 to January 13, 2009, Respondent was employed by Friendship Village in Tempe, Arizona.

7. On January 16, 2009, Jane Vicars, Director of Nursing for Friendship Village in Tempe, Arizona, filed a complaint with the Board stating that on December 12, 2008, three facility nursing supervisors observed Respondent to be lethargic and had difficulty keeping her eyes open and maintaining concentration while on duty. Respondent's urine drug screen returned positive for hydrocodone.

8. On December 21, 2008, Dr. Brown, a Medical Review Officer reviewing Respondent's urine drug screen, reported Respondent had a valid prescription for Vicodin (hydrocodone). He requested Respondent obtain a fit for duty letter stating she was not on any medication that might impair her or interfere with her duties.

9. In her complaint, Vicars also stated Respondent failed to maintain accurate controlled drug medication administration records for patients M.V. and E.J. Vicars said that on December 21, 2008, Respondent changed a sign out date and times for Percocet for M.V. According to Vicars, M.V. said she did not receive any Percocet. Respondent also signed out Vicodin for E.J. when E.J. did not request or require narcotic medications. Other nursing staff medicated E.J. with two tablets of Juvet (acetaminophen). Respondent said she administered medications as requested, and the record showed other staff also gave Vicodin for E.J.

10. On or about January 13, 2009, Respondent's employment from Friendship Village was terminated.

11. A Board staff review of medical records from Friendship Village showed the following information:

a. For patient M.V., Respondent documented withdrawing two tablets of Percocet on December 20, 2008 at 9:45 a.m. Another copy of the same form showed an illegible date and the time 2:40 p.m. written over another time. Both entries were signed by Respondent.

b. For patient E.V., the physician ordered Vicodin one tablet every four hours for moderate pain and two tablets for severe pain. Respondent signed out two tablets of Vicodin on December 15, 2008 at 11:30 a.m. and then at 9:00 a.m., less than the ordered four hours and not in timed sequence.

12. In a Board interview on July 9, 2009, Respondent admitted making documentation errors while working at Friendship Village. Respondent denied diverting medications for her personal use. Respondent said she was having difficulty with memory and lethargy for about two months at both MMC and Friendship Village. Respondent said she was having trouble with her eyes for which she was receiving treatment. Respondent attributed her lethargy and coordination difficulties to problems with her prescribed Lithium and Klonopin dosages. Respondent admitted she adjusted dosages for Klonopin but never exceeded the prescribed amount. Respondent said she was also taking prescribed Percocet for migraine headache pain.

13. On August 14, 2009, Respondent underwent a substance abuse evaluation with Andrew Weissman, Ph.D. Dr. Weissman opined Respondent's evaluation and test results did not suggest the presence of a substance abuse or dependence disorder but did indicate a mood disorder. He recommended drug screen monitoring for a minimum of one year, individual psychotherapy, and continuing education courses.

#### **CONCLUSIONS OF LAW**

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

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The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1663 (D) as defined in A.R.S. § 32-1601 (16)(d), (h), and (j), and A.A.C. R4-19-403 (B) (1), (7), (8)(b), (9), (17), and (31) (adopted effective November 13, 2005).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke, suspend or take other disciplinary action against Respondent's license to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to the Order except in the limited circumstance(s) specified in Paragraph 19 of the Order.

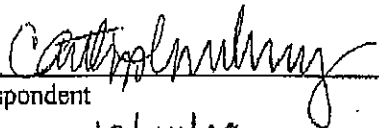
Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

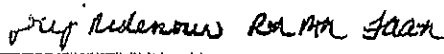
Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the Agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the

date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

  
Respondent

Dated: 12/24/09

ARIZONA STATE BOARD OF NURSING

  
Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Midkiff/RN13788/STonkiewicz

Dated: November 19, 2009

**ORDER**

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

- A. Respondent's consent to the terms and conditions of this Order and waiver of public hearing is accepted.
- B. Respondent's license is placed on probation for eighteen months. Prior to termination of probation, Respondent shall work as a registered nurse for a minimum of twelve months (not less than sixteen hours a week).
- C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

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D. If Respondent is noncompliant with any of the terms of the Order during the eighteen month probation portion of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

E. If Respondent is convicted of a felony, Respondent's license shall be automatically revoked for a period of five years. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

F. The probation is subject to the following terms and conditions:

#### **TERMS OF PROBATION**

1. **Stamping of License**

Within seven days of the effective date of this Order, Respondent shall submit her license to be stamped "PROBATION." While this Order is in effect, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "probation." Respondent is not eligible for a multistate "Compact" license.

2. **Psychological Counseling**

Within thirty days of the effective date of this Order, Respondent shall submit to the Board for approval the name of a Ph.D. level psychologist with expertise in treatment of mood disorders to conduct psychological counseling for depression and anxiety.

Within seven days of receipt of approval from the Board Respondent shall make an appointment to begin participation in treatment. Respondent shall execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of the entire Consent Agreement, medical records, and Dr. Andrew Weissman's evaluation to all treating

professional(s). Within seven days of the beginning of treatment, Respondent shall cause any and all treating professional(s) to provide written verification of enrollment in treatment and verifying receipt of the consent agreement. Thereafter, Respondent shall cause any and all treating professional(s) to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing treatment until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

3. Educational Courses/Programs: Nursing Ethics and Documentation

Within thirty days of the effective date of this Order, Respondent shall submit to the Board or its designee for prior approval, course outlines/objectives of educational courses or programs related to nursing ethics and documentation. Respondent shall then provide written proof from the instructors or providers of the courses verifying enrollment, attendance, and successful completion of each required course or program. Following the successful completion of each course or program, the Board or its designee may administer an examination to test Respondent's knowledge of the course or program content. The Board reserves the right to amend the Order based on the recommendation(s) of the course instructor. Respondent must complete these courses within the first three months after the effective date of this Order.

6. Drug Testing

Within 7 days of the effective date of this Order and throughout the term of this Order, Respondent shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at a minimum of twice per month, for a period of twelve (12) months, thereafter a minimum of once per month, and may be required more frequently as

requested by the Board or its designee. Respondent shall notify the drug testing laboratory and the Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to submit a specimen on a date requested due to illness, Respondent must provide in writing within 7 days of the missed specimen, documentation from a medical provider who has personally seen Respondent on the day of the requested drug test confirming that Respondent was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. Submission of a dilute specimen is considered invalid for drug screening purposes, and will result in Respondent being required to re-submit a specimen upon notification by the Board, its designee, or the drug-screening laboratory. Submission of a dilute specimen may result in increased frequency of drug testing, or Respondent being required to undergo a medical evaluation to ascertain the reasons for the dilute specimen. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Respondent's employer by the Board.

5. Abstain From Unauthorized Drug Use/Proof of Prescription

Respondent shall abstain completely from the personal use or possession of controlled substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law, or any drugs requiring a prescription.

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Orders prohibiting Respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a medical provider. During the duration of this Order, Respondent shall select one medical provider to coordinate her health care needs and to be aware of all prescriptions utilized by Respondent. Respondent shall immediately submit to that provider a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and shall execute all release of information form(s) as required by the Board or its designee. The medical provider shall, within one week of the effective date of the consent agreement, inform the Board, in writing, of knowledge of Respondent's Order and provide a list of medications prescribed for Respondent. DURING THE DURATION OF THE CONSENT AGREEMENT, RESPONDENT SHALL CAUSE ALL PROVIDERS TO NOTIFY THE BOARD OF ANY ADDITIONAL MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Respondent has a lawful prescription for a narcotic or mood-altering drug, Respondent shall cause her prescribing provider to submit monthly reports to the Board by the 30<sup>th</sup> day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Respondent shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

6. Pharmacy Profiles

Throughout the duration of this Order, Respondent shall use only one pharmacy from which to obtain her prescriptions. Within 30 days of the effective date of the Consent

Agreement, Respondent shall submit in writing to the Board the name of every pharmacy and/or facility from which Respondent is currently obtaining prescription medications, and shall submit the name of the pharmacy from which she chooses to obtain future prescriptions. Throughout the duration of the Order, Respondent must inform the Board in writing within 7 days of any additions or changes in pharmacies from which Respondent obtains medications. Respondent shall submit a copy of all pharmacy profiles to the Board on a quarterly basis according to the assigned reporting due dates, and upon request from the Board or its designee. The first report shall be due on the first quarterly due date after the effective date of this Order.

7. Notification of Practice Settings

If Respondent is currently employed, Respondent shall provide a copy of the entire Order within three days of the effective date of the Order and shall cause her immediate supervisor to notify the Board, in writing and on employer letterhead, of the receipt of the Order and the employer's ability to comply with the conditions of probation. Thereafter, any setting in which Respondent accepts employment, which requires nursing licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within three (3) calendar days of Respondent's date of hire, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences

8. Monthly Performance Evaluation Reports

Within 30 days of the effective date of this Order, and monthly for the duration of the probationary period, Respondent shall cause every employer Respondent has worked for to submit to the Board, in writing, employer evaluations on the Board-approved form. Evaluations are to include date, time, and results of random supervisory visits and phone calls to patients. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action, or termination from a place of employment shall constitute a violation of this paragraph. In the event Respondent is not employed in nursing or attending school during any quarter or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities on the Board-approved form.

9. Practice Supervision

While employed at Volunteers of America Home Health Care agency, Respondent may work without the presence of a registered nurse during home visits as long as the following conditions are met: A registered nurse supervisor in good standing with Board shall make at least one random on-site visit with Respondent once per month and at least one random phone call once per month to one or more of Respondent's patient(s). The supervising nurse shall have read the Respondent's Consent Agreement and Order to include Findings of Fact and Conclusions of Law. Respondent shall direct the supervising nurse to submit monthly performance evaluations which include the date and time of the random visits and calls.

If the Respondent obtains another position at any other agency, the following on-site supervision becomes effective. Respondent shall practice as a nurse only under the on-site supervision of a registered nurse in good standing with the Board. On-site supervision is defined as having a registered nurse present in the building while Respondent is on duty. The supervising nurse/primary preceptor shall have read this Consent Agreement and Order to

include the Findings of Fact and Conclusions of Law, and Order, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse/primary preceptor shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause her new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within ten days of assignment of a new supervising nurse.

10. Work Conditions

Respondent may continue to work for Volunteers of America Home Health Care for the duration of the probation. If Respondent is no longer employed at Volunteers of America Home Health Care, Respondent may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, or float-pool during the period of probation.

11 Acceptable Hours of Work

Respondent shall work only the day or evening shift. Evening shift is defined as a shift that ends prior to midnight. Within a 14-day period Respondent shall not work more than 84 scheduled hours.

Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven-day period, but Respondent may not work more than 3 consecutive 12-hour shifts during this probationary period. Respondent shall not work 2 consecutive 8 hour shifts within a 24 hour period or be scheduled to work 16 hours within a 24 hour period.

12. Out-Of-State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must first be approved by the Board prior to leaving the state. If Respondent fails to receive such approval before leaving the state, none of the time spent out of state will be credited to the fulfillment of the terms and conditions of this Order.

13. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within 10 days of the Board's written request. If Respondent fails to execute the releases, her license shall be reviewed by the Board for consideration of possible further discipline on Respondent's license.

14. Interview with the Board or its Designee

Respondent shall appear in person or if residing out of state telephonically for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

15. Renewal of License

In the event Respondent's registered nurse license is scheduled to expire while this Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

16. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within 7 days of any change in nursing employment, personal address or telephone number. Changes in nursing employment include the acceptance, resignation or termination of employment.

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17. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within 10 days, any misdemeanor or felony arrest or conviction.

18. Costs

Respondent shall bear all costs of complying with this Order.

19. Violation of Probation

If Respondent is noncompliant with this Order in any respect, the Board or its designee may notify Respondent's employer of the non-compliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

20. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily request surrender of her license.

21. Completion of Probation

Respondent is not eligible for early termination of this Order. Upon successful completion of the terms of probation, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

ARIZONA STATE BOARD OF NURSING

SEAL

*Joey Ridenour R.N. M.N. F.A.A.N.*

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: November 19, 2009

JR/PM

COPY e-mailed this 23<sup>rd</sup> day of December to:

CAITLYN JEAN TOMKIEWICZ

By: Pat Midkiff, RN, MN  
Nurse Practice Consultant